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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,541	05/22/2001	Therin L. Dastrup	H0001303	8776

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EXAMINER

CORSARO, NICK

ART UNIT PAPER NUMBER

2684

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,541

Applicant(s)

DASTRUP ET AL.

Examiner

Nick Corsaro

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 is/are allowed.
- 6) ☒ Claim(s) 17-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

Response to Arguments

1. Applicant's arguments filed 04/08/2005 regarding claims 17-26 have been fully considered but they are not persuasive.

The applicants argued features wherein, a communications method and apparatus effects airborne or aircraft telecommunications; wherein the method and apparatus includes an input for receiving a message to be transmitted from an aircraft, a logic device for identifying a preferred communications attribute to be utilized in transmitting said message as a function of: a service volume; and at least one of a VHF frequency preference and a channel preference; and a router for effecting airborne communications according to said preferred communications attribute reads upon Ward in view of Hogg as follows.

Ward is disclosing a radio frequency communications system for aircraft wherein Ward discusses aircraft flying through zones with different frequencies dedicated to the zones or ATC sectors. Ward discloses identifying frequencies within the sectors for transmission of messages between aircraft and the controllers. Therefore, Ward shows the limitation of "an input for receiving a message to be transmitted from an aircraft". Ward discusses determining a preferred frequency as a function of the ATC sector. As a result, Ward shows the limitation of "a logic device for identifying a preferred communications attribute to be utilized in transmitting said message as a function of: a service volume". Ward discusses selecting the frequency and transmitting based on the selected frequency. To that end, Ward discloses the limitation of "at least one of a VHF frequency preference and a channel preference; and a router for effecting airborne communications according the selection". Ward did not however specifically show

Art Unit: 2684

checking an attribute, however, did show selecting the frequency based on parameters such as distance, rise and fall, and trends. As a result Ward implied checking other attributes. For that reason, Hogg was used to show that checking an attribute would be obvious to one skilled in the art, where Hogg showed checking for deteriorating signal as an aircraft changed zones and where Hogg suggest the need to check attributes because as the aircraft moves the power of the signal in a particular zone may get weak.

Consequently, Ward in view of Hogg discloses the argued limitations.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17, 21, and 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al. (6,282,417) in view of Hogg et al. (6,430,412).

Consider claims 17, Ward discloses a method of aircraft communications (see abstract lines 1-10). Ward discloses identifying current service volume (see col. 8 lines 35-67). Ward discloses identifying an available VHF communication channel frequency from a table of preferred VHF frequencies associated with said current service volume (see col. 8 lines 57-67, and col. 9 lines 39-58). Ward discloses selecting a preferred communication frequency characteristic from a table of characteristics associated with said current service volume and according to said available VHF communication channel frequency and effecting airborne communications utilizing said preferred communication characteristic (see col. 10 lines 11-62).

Art Unit: 2684

Ward does not specifically disclose a frequency attribute. Hogg teaches a frequency attribute (see col. 3 lines 14-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ward, and select an attribute, as taught by Hogg, thus allowing the minimization of problems with the channel, as discussed by Hogg (col. 3 lines 1-12).

Consider claim 22, Ward discloses selecting the communication characteristic of VHF (see col. 10 lines 23-62). Ward does not specifically disclose a frequency attribute of HF. Hogg teaches a frequency attribute of HF (see col. 3 lines 14-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Ward, and select an attribute of HF, as taught by Hogg, thus allowing the minimization of problems with the channel, as discussed by Hogg (col. 3 lines 1-12).

Consider claims 8, 14, 21; Ward discloses position (see col.8 lines 34-67).

3. Claims 18, 19, 20, and 23-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Hogg as applied to claim 17 above, and further in view of Kocin et al. (6,721,559).

Consider claims 18, 19, 20, 23-26, Ward and Hogg discloses several communications selection to assure communications including several types of communication systems inherently including those communications systems used by other network providers, as discussed above, however do specifically disclose air to air links. Kocin teaches air-to-air links (see col. 2 lines 1-10, and col. 4 lines 10-42). It would have been obvious to one of ordinary skill in the art at the

Art Unit: 2684

time the invention was made to modify the invention of Ward and Hogg, and have air-to-air, as taught by Kocin, thus allowing continued communications with adaptable demands, as discussed by Kocin (col. 2 lines 34-50).

Allowable Subject Matter

4. Claims 1-16 are allowed.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nick Corsaro whose telephone number is 571-272-7876. The examiner can normally be reached on 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay A Maung can be reached on **571-272-7882**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2684

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nick Corsaro', with a long horizontal stroke extending to the right.

Nick Corsaro

NICK CORSARO
PRIMARY EXAMINER

Primary Examiner
(703) 306-5616